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**COURT OF APPEAL, FOURTH DISTRICT**

**DIVISION TWO**

**STATE OF CALIFORNIA**

THE PEOPLE,

Plaintiff and Respondent,

v.

ANDRE JERIEL JACQUES et al.,

Defendants and Appellants.

E047717

(Super.Ct.No. SWF016690)

ORDER MODIFYING OPINION  
AND DENYING PETITION FOR  
REHEARING  
[NO CHANGE IN JUDGMENT]

The petition for rehearing is denied. The opinion filed in this matter on January 18, 2011, is hereby modified, as follows:

1. On page 37, in the first full paragraph the number 10 is changed to the number 5.
2. On page 37, in the first full paragraph, the following footnote number 32 is added as follows:

“The parties agree that since there was no allegation that the robbery was in concert and no such finding was made by the jury, the term should be three, four or six years, plus the 5<sup>32</sup> year gang enhancement.”

3. In the first full paragraph on page 38, the word ten is changed to five.

Except for this modification, the opinion remains unchanged. This modification does not change the judgment.

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RAMIREZ  
P.J.

We concur:

HOLLENHORST  
J.

McKINSTER  
J.

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<sup>32</sup> We note that in his reply brief, and in agreement with the People, Jacques stated that this term should be 10 years, a position he claims is erroneous in his petition for rehearing.